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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA)	CR No. 03-10-70015 EDL
)	
)	
v.)	[PROPOSED] ORDER OF DETENTION
)	
DARNELL FOSTER,)	
)	
Defendant.)	

This matter came before the Court on January 12, 2010 for a detention hearing. The defendant, Darnell Foster, was present and represented by Assistant Federal Public Defender Jodi Linker. Assistant United States Attorney Nicole M. Kim appeared for the United States of America. The defendant waived his right to an identity hearing under Rule 32.1 of the Federal Rules of Criminal Procedure.

A Petition for Warrant or Summons for Offender Under Supervision (the "Petition") was filed by U.S. Probation of the Eastern District of California on or about September 25, 2009, alleging five violations of the terms and conditions of supervised release.

The Government requested detention and the defendant opposed. Proffers and arguments

1 regarding detention were submitted by the parties at the hearing.

2 Fed. R. Crim. P. 32.1(a)(6) provides that “the magistrate judge may release or detain the
3 person [alleged to have violated supervised release] under 18 U.S.C. § 3143(a) pending further
4 proceedings. The burden of establishing that the person will not flee or pose a danger to any
5 other person or to the community rests with the person.” The Bail Reform Act of 1984, 18
6 U.S.C. § 3143(a) provides that the person shall be detained “unless the judicial officer finds by
7 clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of
8 any other person or the community if released. . . .”

9 Upon consideration of the facts, proffers, and arguments presented, the Court finds that
10 the defendant has failed to meet his burden to show by clear and convincing evidence that the
11 defendant is not likely to flee or pose a danger to the safety of any other person or the community
12 if released. The Court notes that the defendant has multiple violations of the conditions of his
13 probation and supervised release, in addition to multiple failures to appear for various court
14 cases. In addition to the charges alleged in the Petition, the defendant has also tested positive for
15 several different controlled substances on numerous occasions after the Petition was filed by U.S.
16 Probation in the Eastern District of California. The defendant also currently has an outstanding
17 warrant for his arrest out of Solano County Superior Court, as well as two other outstanding
18 warrants for cases in Vallejo, CA and Fairfield, CA.

19 Accordingly, the Court concludes that the defendant must be detained pending his
20 removal to face the charges in the Petition in the Eastern District of California. The Court notes
21 that an arraignment on the charges before the Magistrate Judge in the Eastern District of
22 California has been scheduled for Friday, January 15, 2010.

23
24 Dated: January 13, 2010


HON. ELIZABETH D. LAPORTE
United States Magistrate Judge